

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates

26 February 2014

Question: AET 1667-1671

Topic: Drip Pricing (ACCC)

Written: 6 March 2014

Senator WONG asked:

On 21 Feb the ACCC released its 2014 Compliance and Enforcement Policy which outlines the priority areas for the year ahead.

I refer to your announcement about 'drip pricing'.

- 1667. How widespread are these practices? Which sort of vendors are the focus of investigations? Are we talking about ticket vendors mainly?
- 1668. Has the ACCC spoken to these companies informally about their concerns before now? Are these long standing concerns the ACCC has had?
- 1669. What sort of actions is the ACCC looking to take in the near future?
- 1670. Under which part of the Competition and Consumer Act will the ACCC be taking action under? Would the ACCC for example take action under the clarity of pricing provisions of the Australian Consumer Law?
- 1671. As an aside question, given the announcement on price monitoring for the carbon tax removal, has the ACCC set-up a dedicated 'special unit' to focus on this area? When was that set-up? If it hasn't been set up, when will it?

Answer:

- 1667. In accordance with the ACCC's 2014 *Compliance and Enforcement Policy*, the ACCC is currently prioritising its work in areas including emerging consumer issues in the online marketplace, particularly those associated with the incremental disclosure of additional fees and charges (including credit card surcharges) by traders (often referred to as 'drip pricing').

Drip pricing involves the incremental disclosure of fees and charges over an online booking process. It causes both competition and consumer detriment. Consumers see a 'headline' price advertised at the beginning of the booking process but when they progress to the payment phase, additional fees and charges have been added. Consumers purchasing airfares or sporting event tickets are all too familiar with this practice. Drip pricing involves a lack of transparency which may mislead consumers, and it can also make it difficult for businesses to compete on a level playing field.

The focus of the ACCC's current investigations into drip pricing is largely focused on traders within the travel and entertainment sectors (including certain airlines and ticket vendors) which utilise online booking systems. The ACCC is further considering whether drip-pricing practices are occurring in other industry sectors.

- 1668. In 2013 the ACCC contacted several companies regarding their conduct relating to drip pricing practices that may raise concerns under the Australian Consumer Law.

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1669. With the release of the ACCC's *Compliance and Enforcement Policy*, on 21 February 2014, the ACCC announced it will be taking enforcement action in the area of drip pricing shortly. The ACCC is currently progressing investigations in this area.

In addition, the ACCC will consider compliance strategies to engage traders with good pricing practices to improve their price transparency for goods and services sold online.

The ACCC's enforcement action under the *Competition and Consumer Act 2010* (CCA) may include:

- administrative resolutions where the ACCC may accept an administrative resolution such as a commitment by a trader agreeing to stop the conduct
- section 87B enforceable undertakings where the ACCC may resolve contraventions of the CCA by accepting court enforceable undertakings
- court action such as the court making declarations, injunctions, orders, non-punitive orders, imposing pecuniary penalties or requiring respondents to publish notices and corrective advertising.

1670. Traders practices relating to drip-pricing may raise concerns under the following sections of the Australian Consumer Law (Schedule 2 of the CCA):

- Section 18 – misleading and deceptive conduct
- Section 29(1)(i) – false or misleading representations concerning price
- Section 29(1)(m) – false or misleading representation concerning the existence, exclusion or effect of any condition, warranty, guarantee, right or remedy (including a guarantee under Division 1 of Part 3-2)
- Section 48 – single price to be specified in certain circumstances.

1671. On 18 February 2014, the ACCC received a Direction under Part VIIA of the CCA from the Government to undertake a formal monitoring role in preparation for the repeal of the carbon tax post July 2014. The Direction took effect from 1 March 2014 and remains in force until 30 June 2015.

The ACCC has dedicated staff to this price monitoring function and has commenced gathering information for this purpose.